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2                   IN THE UNITED STATES DISTRICT COURT  
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6                   FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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9                   KEITH STAMPS,  
10                  Petitioner,  
11                  v.  
12                  RANDY GROUNDS,  
13                  Respondent.

No. C 12-05753 WHA

14                   **ORDER TO SHOW CAUSE RE  
15                  MOTION TO STAY**

16                   State prisoner Keith Stamps, through counsel, filed petition for a writ of habeas corpus  
17                  on November 8, 2012. The petition includes five claims, including two that petitioner admits  
18                  have not been exhausted (Dkt. No. 5 at 3). Petitioner has now filed a motion seeking a “stay-  
19                  and-abate” order pursuant to *Rhines v. Weber*, 544 U.S. 269 (2005). *Rhines* held that a district  
20                  court has the authority to issue stays of mixed petitions under AEDPA where good cause exists  
21                  for petitioner’s failure to exhaust the claims in state court and the claims are potentially  
22                  meritorious. *Id.* at 277.

23                   This order notes that no order to show cause regarding the habeas petition has issued, and  
24                  respondent has not yet been required to respond to the merits of the petition. Respondent is  
25                  hereby ordered to show cause why the motion to “stay-and-abate” should not be granted. By  
26                  responding to the motion to stay, respondent does not thereby waive all objections or arguments  
27                  regarding the merits of the underlying petition. Respondent’s response is due by **JANUARY 29**  
28                  **AT NOON**. Counsel for petitioner must serve this order and the motion on counsel for respondent  
forthwith.

29                   **IT IS SO ORDERED.**

30                  Dated: January 8, 2013.

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32                   WILLIAM ALSUP  
33                   UNITED STATES DISTRICT JUDGE